

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 7

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO CIGARETTE AND TOBACCO PRODUCT TAXES; AMENDING SECTION 63-2502, IDAHO CODE, TO REVISE THE DEFINITION OF "WHOLESALE"; AMENDING SECTION 63-2513, IDAHO CODE, TO CORRECT A TYPOGRAPHICAL ERROR; AND AMENDING SECTION 63-2551, IDAHO CODE, TO REVISE DEFINITIONS OF "TOBACCO PRODUCTS," "WHOLESALE SALES PRICE," AND "PLACE OF BUSINESS."

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2502, Idaho Code, be, and the same is hereby amended to read as follows:

63-2502. DEFINITIONS. For the purpose of this act, unless otherwise required by the context:

(a) The word "wholesaler" means and includes every person who purchases, sells or distributes cigarettes to other wholesalers or to retailers for the purpose of resale and "delivery sellers" as defined in 15 U.S.C. section 375.

(b) The word "retailer" means every person, other than a wholesaler, who purchases, sells, offers for sale, or distributes cigarettes at retail, irrespective of quantity or amount, or the number of sales.

(c) The phrase "wholesale sale" means a sale of cigarettes by a wholesaler to a retailer.

(d) The word "cigarette" shall be taken in the ordinary context of that word and shall be any roll for smoking, made wholly or in part of tobacco, where such roll has a wrapper or cover made of paper or any other material, except where such wrapper is wholly or in the greater part made of tobacco.

(e) The phrase "package of cigarettes" means the individual package, box, or other container in or from which retail sales of cigarettes are normally made or intended to be made. A package shall contain no less than twenty (20) cigarettes and be packaged in increments of five (5).

SECTION 2. That Section 63-2513, Idaho Code, be, and the same is hereby amended to read as follows:

63-2513. CONTRABAND ARTICLES. Any unstamped cigarettes held, owned, possessed or in control of any person for a period of time longer than necessary to affix Idaho stamps, ~~and~~ are hereby declared to be contraband goods, except as authorized under subsection (b) of section 63-2512, Idaho Code, and may be seized by the state tax commission, or an employee of the state tax commission, or any peace officer, when directed by the state tax commission, without a warrant. Any vehicle, not a common carrier operating in interstate commerce, used in violating this act, shall likewise be subject to confiscation. Said cigarettes or vehicles seized shall be offered for sale. Fifteen (15) days' notice of the sale shall be given; net proceeds from the sale shall

1 be deposited in the general fund. The state tax commission shall require the
 2 purchaser at the sale to affix the proper amount of tax stamps to cigarette
 3 packages.

4 SECTION 3. That Section 63-2551, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 63-2551. TOBACCO PRODUCTS TAX -- DEFINITIONS. As used in this act:

7 (1) "Tobacco products" shall mean any cigars, cheroots, stogies,
 8 smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed
 9 and any other kinds and forms of tobacco suitable for smoking in a pipe or
 10 cigarette), chewing tobacco (including cavendish, twist, plug, scrap and
 11 any other kinds and forms of tobacco suitable for chewing) and snuff, however
 12 prepared; and shall include any other articles or products made of tobacco ~~or~~
 13 ~~any substitute therefor~~, except cigarettes;

14 (2) "Manufacturer" means a person who manufactures and sells tobacco
 15 products;

16 (3) "Distributor" means (a) any person engaged in the business of sell-
 17 ing tobacco products in this state who brings, or causes to be brought, into
 18 this state from without the state any tobacco products for sale, (b) any per-
 19 son who makes, manufactures, or fabricates tobacco products in this state
 20 for sale in this state, (c) any person engaged in the business of selling to-
 21 bacco products without this state who ships or transports tobacco products
 22 to retailers in this state, to be sold by those retailers;

23 (4) "Subjobber" means any person, other than a manufacturer or distrib-
 24 utor, who buys tobacco products from a distributor and sells them to persons
 25 other than the ultimate consumers;

26 (5) "Retailer" means any person engaged in the business of selling to-
 27 bacco products to ultimate consumers;

28 (6) "Sale" means any transfer, exchange, or barter, in any manner or by
 29 any means whatsoever, for a consideration, and includes and means all sales
 30 made by any person. It includes a gift by a person engaged in the business of
 31 selling tobacco products, for advertising, as a means of evading the provi-
 32 sions of this chapter, or for any other purposes whatsoever;

33 (7) "Wholesale sales price" means the established price for which a
 34 manufacturer or any person sells a tobacco product to a distributor that is
 35 not a related person as defined in section 267 of the Internal Revenue Code,
 36 exclusive of any discount or other reduction;

37 (8) "Business" means any trade, occupation, activity, or enterprise
 38 engaged in for the purpose of selling or distributing tobacco products in
 39 this state;

40 (9) "Place of business" means any place where tobacco products are man-
 41 ufactured, stored, or kept for the purpose of sale or consumption, including
 42 any vessel, vehicle, airplane, or train, ~~or vending machine~~;

43 (10) "Retail outlet" means each place of business from which tobacco
 44 products are sold to consumers;

45 (11) "Commission" means the Idaho state tax commission.